

Application No: 10/612,439

Docket No.: Q170-US1

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SEP 12 2007

REMARKS

Claims 1, 3-9, 65-79, and 81 were previously presented. Claim 2 was previously withdrawn. Claims 10-64 were previously cancelled. Claim 80 is currently amended. Accordingly, claims 1, 3-9, 65-81 are pending examination.

Rejection of Claim 1 Under 35 USC §102(e)

Claim 1 stands rejected under 35 USC §102(e) as being anticipated by either Hydro-Quebec WO 02/27823 or Hydro-Quebec WO 02/27824 (collectively called the cited art below). The cited art is not prior art under 35 USC §102(e). As of September 12, 2007, the USPTO publishes the following under the heading "D13" at <http://www.uspto.gov/web/offices/dcom/olia/aipa/102efaq.htm> (enclosed):

D13. If an International Application (IA) was published by the World Intellectual Property Organization (WIPO) in a language other than English (*i.e.*, German) and designates the United States, is there any action that can be done (*i.e.*, filing an English translation) to make the published IA eligible to be prior art under amended 35 U.S.C. 102(e)? (Previously D1, amended and posted 12/13/02)

No. 35 U.S.C. 102(e) and 374, as amended by American Inventors Protection Act of 1999 (AIPA) (Pub. L. 106-113) and as further amended by Technical Amendments Act of 2002 (Pub. L. 107-273), is applicable to the WIPO publication of the IA. 35 U.S.C. 102(e), in combination with 35 U.S.C. 374, clearly state that the WIPO publication of an IA only receives a 35 U.S.C. 102(e) prior art date if the IA is published under PCT Article 21(2) in English and designated the United States. Therefore, the IA must have been: 1) filed on or after November 29, 2000, 2) published by the WIPO pursuant to PCT Article 21(2) in English, and 3) designated the United States in order for the WIPO publication to be available as prior art under 35 U.S.C. 102(e). Any filing of an English translation will not be effective in obtaining a 35 U.S.C. 102(e) prior art date for the publication of the IA published by the WIPO in a language other than English.

Since the cited art are each a WIPO publication of an International Application and are each published in French, they are not eligible to be prior art under 35 USC §102(e).

Claims 3-9, 65-81

Each of claims 3-9, and 65-81 depend from independent claim 1. Since independent claim 1 is believed to be in condition for allowance, Claims 3-9, and 65-81 are also believed to be in condition for allowance.

Application No: 10/612,439

Docket No.: Q170-US1

RECEIVED
CENTRAL FAX CENTER Page 7

SEP 12 2007

CONCLUSION

The Examiner is encouraged to telephone the undersigned with any questions.

Respectfully submitted,



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